IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE CIVIL JURISDICTION

WRIT PETITION NO. 4469 OF 2001

Mr. Jamunaprasad Dukhi Rajbhar .. Petitioner.

V/s.

Mr. Raheshyam Ramchandra Singh & Ors. .. Respondents.

Shri V.B. Dhawan and Shri R.M.Nakhawa for the Petitioner.

None for the Respondents, though served.

CORAM : S. A. BOBDE, J.
DATED : 03rd MAY, 2006

PC :

1. This writ petition is directed against the refusal of the injunction by the Trial Court and the confirmation of the refusal by the Appellate Court.

2. None appears for the Respondents though served.

3. The Petitioner/ Plaintiff claims to be a lessee of the suit property bearing Survey Nos. 174 and 176 for a term of 99 years. The lease deed is dated 20th April, 1965.

4. The Plaintiff sued the Defendants i.e. Respondents Nos.1 to 8, inter-alia for an injunction, restraining them

from disturbing the Plaintiff's possession. The Respondents Nos.1 to 7 are Teachers of a School and No.8 is a corporator.

5. The injunction has been refused by both the courts below on the ground that the petitioner is said to have demolished the school building and is, therefore, not entitled to any protection.

6. Rule was issued by this Court. By an interim order dated 27th September, 2001, this Court has passed the following injunction in terms of prayer clause (b) :-

> "(b) that the pending the hearing and final disposal of the petition, the respondents, their servants, persons, agents, claiming through or under them be directed and restrained by an order of injunction of this Hon'ble Court not to enter upon the suit property, and not to encroach upon any part of the suit plot, property and not to disturb and interfere with the peaceful possession of the Petitioner over the suit plot property;"

7. Having regard to the circumstances of the case and in particular, the fact that there is not much dispute about the plaintiff's possession and title and also in

view of the fact that the Respondents Nos. 1 to 7 are Teachers and Respondent No.8 is a Corporator and in view of the fact that in any case, the Respondents would not be entitled to disturb the Plaintiff's possession, pending the decision of the suit, I consider it appropriate in the interest of justice to direct the Trial Court to decide the Civil Suit within a period of one year from the date the Petitioner appears before the Trial Court. The Petitioner is directed to appear before the Trial Court on 5th June, 2006.

8. Pending decision of the suit, the interim order granted by this court on 27th September, 2001 shall continue.

9. Rule is made absolute in the above terms. Petition disposed of.

03.05.2006 (S.A.BOBDE,J)

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